

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Eighteenth Region

STORA ENSO NORTH AMERICA

Employer

and

PAPER, ALLIED-INDUSTRIAL, CHEMICAL &
ENERGY WORKERS (PACE) INTERNATIONAL
UNION, AFL-CIO, CLC

Petitioner

Case 18-RC-17225

DECISION AND DIRECTION OF ELECTION

Petitioner seeks a unit of all full-time and regular part-time production and maintenance employees employed by the Employer at its Duluth, Minnesota facility; excluding office clerical employees, professional employees, managers, and guards and supervisors as defined in the Act, as amended. The Employer stipulated to the appropriateness of the unit sought by Petitioner, but disputes the inclusion of the storeroom technicians in the unit. Thus, while Petitioner contends that the storeroom technicians share a community of interest with the production and maintenance employees, the Employer contends that the storeroom technicians are office clerical employees. After reviewing the record, I conclude that storeroom technicians share a community of interest with the production and maintenance employees, are akin to plant clerical employees, and therefore should be included in the unit.

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the National Labor Relations Board. Upon the entire record in this proceeding, I find:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.¹

3. The labor organization involved claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The first section of this decision will summarize the Employer's operation and organization. I will then describe the job duties and skills of the storeroom technicians, as well as their contact with other employees. The third section of this decision will compare the jobs of storeroom technicians to the jobs of office clerical employees and production and maintenance employees, including working conditions. Finally, I will explain my conclusion that the storeroom technicians should be in the unit.

The Employer's Operation and Organization

The Employer manufactures super calendared A grade paper at its Duluth facility. This paper is lightweight glossy paper used in magazines and advertisements. In addition, the Duluth facility has a recycled pulp mill that makes pulp for use by the Employer not only in Duluth, but also at its other facilities. The Employer also sells this pulp to customers in the market for it.

¹ The Employer, Stora Enso North America, is a Wisconsin corporation engaged in the manufacture of paper and pulp products at its Duluth, Minnesota facility. The Employer's annual revenues are in excess of \$500,000, and the Employer annually sells products and materials valued in excess of \$50,000 directly to customers located outside the State of Minnesota.

About 160 employees are employed in production and 40 to 43 employees are employed in the maintenance area. There are a total of three storeroom technicians.

Responsible for the overall operation of the Duluth facility is Mill Manager Pat Moore. Reporting directly to Moore are eight managers. One of the eight is Heinz Kuhlmann, who is the production manager. In turn, reporting to Kuhlmann are Paper Mill Manager Geoff Merrow and Fiber/Materials/Transportation Manager Karen Turnboom. All production employees report either directly or through team leaders to Merrow or to Turnboom. Also reporting to Kuhlmann is Production Support Manager Kevin Snell, who is responsible for the supervision of maintenance employees. Thus, those employees who are in the unit by agreement of the Employer and Petitioner are all under Kuhlmann's bailiwick.

Based on the Employer's organization chart, office clerical employees report either directly or indirectly to Human Resources Manager Laura Molter. Molter in turn reports to Mill Manager Moore. Thus, Molter and Production Manager Kuhlmann are located on the same level on the Employer's organization chart.

The three storeroom technicians in dispute do not report to either Human Resources Manager Molter or to Production Manager Kuhlmann. Rather, their overall supervisor is Paul Thomsen, who reports directly to Mill Manager Moore and whose title is Purchasing/Millwide Systems/TQM Manager. Thomsen, therefore, is located on the same level of the Employer's organization chart as Molter and Kuhlmann. Reporting to Thomsen is Julie Rindal, team leader for the storeroom. The Employer and Petitioner agree that Rindal is a supervisor within the meaning of the Act. Also reporting to Thomsen is Purchasing Specialist Bob Carlson. The

Employer and Petitioner agree that Carlson should be excluded from the unit because he is a managerial employee. Finally, the three storeroom technicians in dispute report to Rindal.²

The storeroom is located on the first level (sometimes referred to as the basement, although there are loading docks on this level on at least one side of the facility). The storeroom is right next to the maintenance area—and there is direct access from the maintenance area into the storeroom. On the other side of the storeroom area is the shipping area—and, again, there is direct access from the shipping area to the storeroom. Both parties agree that shipping employees are in the unit. The remainder of this level is occupied by production employees. In order for the production employees to gain access to the storeroom, they must go through the shipping or maintenance areas.

Office clerical employees are located on the second and third levels of the Employer's facility. Also located on the second level are the offices of Julie Rindal and Bob Carlson.

Job Duties and Skills of Storeroom Technicians/Contact with Other Employees

In essence, the storeroom technicians are responsible for the Employer's receiving and inventory functions.

One of the three storeroom technicians is responsible for most of the receiving function, although she will ask for assistance from another storeroom technician (and perhaps even a maintenance employee) in the event she is unloading particularly heavy parts. This storeroom technician, Julie LeBard, receives parts and raw materials used by the Employer to manufacture its product, including unloading trucks. Unloading the trucks may involve the use of a forklift,

² Also reporting to Thomsen are five employees employed as network administrators, a systems analyst, a process control engineer, and a TQM specialist. There is little or no record testimony on these positions, and neither party contends that these five employees should be included in the unit.

which the storeroom technicians share with the maintenance department. LeBard estimated that she uses the forklift during roughly half of her work time, while Thomsen estimated LeBard uses the forklift about one-half hour each day. It appears that the other two storeroom technicians would rarely use the forklift, except for special projects like rearranging the storeroom. In addition to unloading trucks, LeBard verifies bills of lading, makes sure that the parts are put in place, and enters the receipt of the parts into a computer. LeBard has her own office near the docks, which is labeled “receiving.”

The other two storeroom technicians maintain inventory by entering into the computer updated counts of inventory and any parts or materials removed from inventory.

Any employee—production, maintenance, office clerical, supervisor or manager—has access to the storeroom and can take whatever the employee needs. Employees fill out a card saying what they took and how much, and then the storeroom technicians use the information on the cards to enter data into the computer. In addition, storeroom technicians assist employees in locating parts or materials they need. According to LeBard, production employees who come to the storeroom generally do not know where things are, and need assistance. She also testified that she has contact with maintenance employees all the time, either because they need help finding parts, or because they help the storeroom technicians identify parts that the storeroom technicians can’t figure out. In addition, office clerical employees would visit the storeroom for ink cartridges. It does not appear that office clerical employees get other supplies from the storeroom.

There is little record evidence suggesting that any of the storeroom employees would have work-related reasons to go into the production area. Rather, it appears that production employees go to the storeroom. On the other hand, the storeroom employees have some—albeit

limited—need to visit the maintenance area. This would include to get the forklift and to ask for assistance from a maintenance employee either in some lifting or to identify a part. According to LeBard, she has no reason to go to the second floor unless she needs a pen or she needs to get the mail or a package for the storeroom (a task usually handled by Bob Carlson).

Of the three current storeroom technicians, only one (LeBard) was employed in the production unit. However, LeBard had previous experience as a storeroom employee for another employer prior to taking a job as a production employee with the Employer. LeBard was in the production unit for less than one year when she applied, got interviewed, and was ultimately selected for the position as storeroom employee. According to the job description, storeroom technicians must have knowledge of mechanical parts; understand the storeroom process, basic purchasing and accounts payable procedures; be able to use a forklift and lift 50 pounds on a regular basis; have a valid driver's license; and be proficient in the use of personal computers "such as provided by having at least three years of paper mill experience." The job description also states that storeroom technicians must be able to communicate well, have excellent organizational skills, be able to meet deadlines, work and train others, and do a considerable amount of standing, walking, climbing ladders, and work in a "dirty, dusty, hot, noisy environment ..."

Comparing the Jobs and Working Conditions of Storeroom Technicians with the Jobs and Working Conditions of Other Employees

The Employer's production area works around the clock. There are two shifts, one from 6:00 a.m. to 6:15 p.m., and the other from 6:00 p.m. to 6:15 a.m. Production employees work a 28-day rotation, during which they work four night shifts, then have time off before working day shifts for three days, then after a day off they work three night shifts, followed by time off and

four day shifts. Production employees are then off for seven days. If a production employee's scheduled day of work is a holiday, the employee works the holiday. Production employees do not have scheduled lunch breaks, rather they eat lunch "on the fly." Production employees are paid between \$13.50/hour (entry) to \$28/hour for the highest level equipment operators. Production employees are not evaluated and do not receive raises based on seniority or merit. Instead, any raises they receive are across-the-board annual increases.

Most of the Employer's maintenance employees work 10-hour shifts four days a week (Monday through Thursday). They work 6:00 a.m. to 4:30 p.m., with a half hour for lunch. One or two maintenance employees also work Fridays if the workload requires it. Friday work is overtime. However, four maintenance employees rotate with the production shifts, so that there is always at least one maintenance employee in the building. The base hourly rate for maintenance employees is between \$16.95 and \$27.15 as of April 7, 2003. Maintenance employees get the same across-the-board increases as the production employees. However, the maintenance employees also receive increases based on their knowledge—that is, as their knowledge and skill level increases, so does their hourly rate. Maintenance employees also are not subject to a formal evaluation process.

Storeroom technicians and office clerical employees are treated as nonexempt employees and are salaried. The salary range for storeroom technicians in 2003 was \$28,659 to \$38,774.32. For overtime purposes, their hourly rates are currently calculated at \$15.57, \$16.22 and \$17.30. The record does not reveal the salary ranges of office clerical employees or their hourly rates. Storeroom technicians have one hour for lunch. The storeroom is closed on holidays, although the storeroom technicians have the option of working (not further explained in the record). The office clerical employees also do not work on holidays. Both storeroom technicians and office

clerical employees are evaluated, and their raises are determined solely on merit. In the case of the storeroom technicians, the evaluations are conducted by Rindal, with review by Thomsen.

Storeroom technicians do not perform accounting or payroll functions, or type letters. However, storeroom technicians work with computers, entering data, transmitting emails, and—in the case of LeBard—creating freight bills. Shipping employees also work on computers, and perform clerical duties, such as creating shipping manifests. In fact, shipping employees, like storeroom technicians, also load and unload trucks. However, shipping employees apparently work the same shifts as production employees. Maintenance employees also utilize computers for work orders and to return parts to vendors when the parts are defective. Maintenance employees also do spread sheets on the computer.

Conclusion

In Hamilton Harder Co., 270 NLRB 331 (1984), the Board found that employees who shared characteristics of both office and plant clericals, but whose tasks were related to the production process, were more closely akin to plant clericals, even where the employees worked in a separate enclosed space. I conclude that the storeroom technicians' tasks are related to the production process. Among the evidence that I rely on in reaching this conclusion is the following: (1) The location of the storeroom technicians' work, which is between the shipping and maintenance areas, and a floor below the area where the office clerical employees work; (2) The nature of the work performed by storeroom technicians. Storeroom technicians are not involved in typical office clerical work. While they do work with computers, their jobs are to maintain the Employer's inventory for parts and product used in the production process, which involves both placing inventory in the storeroom and assisting employees in retrieving needed materials. Moreover, at least one storeroom technician, LeBard, spends a significant part of her

day loading and unloading trucks—not typical office clerical work. Rather, when LeBard is loading and unloading trucks, she is performing the exact same work as employees in the shipping area—and those employees are included in the unit; (3) The job requirements to become a storeroom technician include abilities to operate a forklift and lift 50 pounds on a regular basis, knowledge of mechanical parts, and the ability to do a considerable amount of standing, walking, climbing ladders and working in a dirty, dusty, hot, noisy environment—none of these requirements is consistent with office clerical work or functions; and (4) Storeroom technicians are essentially the Employer’s receiving department—which is as closely related to the production process as are the shipping employees. Brown & Root, Inc., 314 NLRB 19, 24 (1994) (checking on inventories and consulting with respect to needed equipment and material is plant clerical function).

In its post-hearing brief, the Employer urges that the storeroom technicians are office clerical employees and do not share a community of interest with the production and maintenance unit, by highlighting several differences between the production and maintenance employees and the storeroom technicians. However, some of those differences are not as significant as the Employer suggests, and some of those differences also exist between the office clerical employees and the storeroom technicians.

As noted by the Employer, storeroom technicians are separately supervised from the production and maintenance employees. However, storeroom technicians are also separately supervised from office clerical employees. As also noted by the Employer, storeroom technicians work a regular schedule of five 8-hour days each week, while production employees work rotating schedules because the Employer’s production operates around the clock. However, nearly all of the maintenance employees (who are in the unit) work a regular

schedule—albeit four days each week, and not five. The Employer also emphasizes the difference in the compensation system when comparing unit employees with the storeroom technicians. That is, production employees receive only across-the-board annual wage increases, and are not evaluated for merit increases. On the other hand, storeroom technicians do not receive across-the-board increases, but instead are evaluated and receive increases based on merit. However, in the unit are maintenance employees, who receive both across-the-board wage increases and increases based on their knowledge and skills. Thus, even among the employees both parties agree are in the unit, there is not one method of determining wage increases. Moreover, the Employer maintains that the work of the storeroom technicians is not an integral part of the production process. However, as already noted, the storeroom technicians are the Employer's receiving department—and appear to be as integral to the production process as the shipping employees.

Finally, I have reviewed the cases cited by the Employer in its brief. While the cases support the Employer's argument that differences in hours of work or payment methods can be factors supporting a conclusion that employees are office clerical employees, they appear to be factors only when both the location and nature of the work suggest office clerical status—which is clearly not the situation herein.

6. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time production and maintenance employees employed by the Employer at its Duluth, Minnesota facility, including storeroom technicians; excluding office clerical employees, professional employees, managers, and guards and supervisors as defined in the Act, as amended.

DIRECTION OF ELECTION³

An election by secret ballot will be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the Notice of Election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date below, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are persons who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.⁴

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Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 - 14th Street, NW, Washington, DC 20570. This request must be received by the Board in Washington by **March 12, 2004**.

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To ensure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. Excelsior Underwear Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Co., 394 U.S. 759 (1969). Accordingly, it is directed that two copies of an election eligibility list containing the full names and addresses of all the eligible voters must be filed by the Employer with the Regional Director within seven (7) days of the date of this Decision and Direction of Election. North Macon Health Care Facility, 315 NLRB 359 (1994). The Regional Director shall make the list available to all parties to the election. In order to be timely filed, this list must be received in the Minneapolis Regional Office, 330

Those eligible shall vote whether or not they desire to be represented for collective-bargaining purposes by Paper, Allied-Industrial, Chemical & Energy Workers (PACE) International Union, AFL-CIO, CLC.

Signed at Minneapolis, Minnesota, this 27th day of February, 2004.

Ronald M. Sharp, Regional Director
Eighteenth Region
National Labor Relations Board

Index #401-7550
440-1760-1900
440-1760-2400

South Second Avenue, Suite 790, Minneapolis, MN 55401-2221, on or before close of business **March 5, 2004**. No extension of time to file this list may be granted by the Regional Director except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.